

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LBB CORPORATION d/b/a SPUNK VIDEO,

Plaintiff,

v.

LUCAS DISTRIBUTION, INC.; LUCAS
ENTERTAINMENT, INC.; LUCAS PRODUCTIONS,
INC.; and ANDREI TREIVAS BREGMAN p/k/a
MICHAEL LUCAS;

Defendants.

)
) Civil Action No.:
) **08-CV-04320 (SAS)**
)
)
) **DECLARATION OF**
) **ROMAN SENKO**
)
)
) **ECF CASE**
)

I, ROMAN SENKO, declare and say under the penalties of perjury and false swearing:

1. I am with Galaxia Entertainment with an office located at Dr. Glazera 15/1215, Horni Sucha, 73535, Czech Republic. My electronic mail address is videocompany@seznam.cz. I submit this sworn Declaration as part of this case and on behalf of Plaintiff LBB CORPORATION d/b/a SPUNK VIDEO (hereinafter "LBB"). I read the complaint of LBB and the answer to that complaint submitted by LUCAS DISTRIBUTION, INC.; LUCAS ENTERTAINMENT, INC.; LUCAS PRODUCTIONS, INC. and ANDREI TREIVAS BREGMAN p/k/a MICHAEL LUCAS (all referred to as "the Lucas Defendants").

2. Galaxia Entertainment (hereinafter referred to as "Galaxia") produces assorted "fetish" type adult gay videos for purchase and sale by various companies throughout the world and in the United States. One such fetish type video that we produce is "bareback" videos (adult sex without the use of condoms). In the past, LBB has commissioned bareback adult gay videos from Galaxia. In the past, the Lucas Defendants also have commissioned adult gay videos from

Galaxia. For example, in 2005, we produced a film for the Lucas Defendants later entitled "Inside Prague". We also produced another video for them that is called "Juvie Boys 2".

3. Sometime in early 2007, MICHAEL LUCAS commissioned a video from Galaxia and agreed to pay \$6,000.00 United States Dollars ("USD") with \$2,000.00 USD as a deposit. The Lucas Defendants did not sign a contract with Galaxia for this video. However, we "shot" and produced the movie that has come to be known as "Raw Twinks in Czech". That video is a four (4) scene "fetish" type adult gay film that features the following performers/models: Vaclav Skrabanek, Erik Mlynarik, Lucas Prchal, Jakub Korous, Frantisek Smejkal, Tobor Kovacs, Bohumil Horacek and Jiri Skrabanek. The first scene has Vaclav Skrabanek and Erik Mlynarik. The second scene has Lucas Prchal and Jakub Korous. Scene three features Frantisek Smejkal and Tobor Kovacs. Bohumil Horacek and Jiri Skrabanek perform together in scene four. Eight (8) performers/models total are in "Raw Twinks in Czech".

4. The Lucas Defendants only paid the \$2,000.00 deposit and later refused to pay the remaining \$4,000.00 because they decided that they did not wish to have the bareback scenes. The Lucas Defendants returned some materials associated with what has become known as "Raw Twinks in Czech" to Galaxia. In an electronic mail dated 26.10.2007, MICHAEL LUCAS indicated that we should sell this video to somebody else. (The electronic mail address that I use to communicate with MICHAEL LUCAS is: Michael@lucasentertainment.com.) I sent a copy of that electronic mail to Casey Dworkin at LBB and a copy of it is attached here as exhibit "A". Galaxia sold this video to LBB.

5. In a contract dated November 6, 2007, I, Roman Senko, on behalf of Galaxia, sold all worldwide rights and interests in and to this video to LBB. This contract is an exclusive

contract to LBB. A copy of that contract is attached as exhibit "B". That film later becomes known as "Nasty Piss Boys" and LBB started selling it under that name.

6. Galaxia continues to work with LBB and I learned of this lawsuit in the United States in New York. I received a copy of the answer to the complaint by the Lucas Defendants that includes a supposed contract attached as exhibit "1" ("the Lucas Exhibit"). In the answer, the Lucas Defendants say that their acts regarding "Raw Twinks in Czech" were "... licensed according to the terms of the written license agreement between Lucas Entertainment, Inc. and Roman Senko, the producer of the film in question, entitled *Raw Twinks in Czech*." Answer at, ¶ 1. This is not correct. I read all five (5) pages of the Lucas Exhibit and I see that it is not accurate. Pages two, three and four of the Lucas Exhibit were written for a video called "Inside Prague". The contract for "Inside Prague" also was for \$10,000.00; not \$2,000.00. A copy of the "Inside Prague" contract is attached here as exhibit "C".

7. The Lucas Exhibit is dated June 7, 2007 on the first page and the last page is dated October 9, 2007. This is not correct because we fax contracts immediately. We would not wait four (4) months. Also, MICHAEL LUCAS was here in the Czech Republic on June 7, 2007. I do not know what contract page one and page five of the Lucas Exhibit deals with and page one of the Lucas Exhibit says there are seven (7) models when "Raw Twinks in Czech" has eight (8) models. But in any case, the exhibit to the answer of the Lucas Defendants does not deal with "Raw Twinks in Czech". Also, I sign all pages of all contracts. (See exhibits "B" and "C"). All the pages of the Lucas Exhibit are not signed by me.

8. Galaxia did not give any of the Lucas Defendants a non-exclusive contract about the video they call "Raw Twinks in Czech". Galaxia did not give any of the Lucas Defendants an exclusive contract about the video they call "Raw Twinks in Czech". The only exclusive

contract and exclusive rights regarding the video that is being called "Raw Twinks in Czech" Galaxia gave to LBB and is being sold as "Nasty Piss Boys".

9. I also found out that one, some or all of the Lucas Defendants are selling the unpaid for video under the name of "Galaxia Entertainment". None of the Lucas Defendants received permission from Galaxia to do that.

10. Prior to signing this Declaration, the contents were translated to me from English to Czech.


Roman Senko,
Galaxia Entertainment,
Dr. Glazera 15/1215, Horni Sucha, 73535
Czech Republic
videocompany@seznam.cz

On the 16 day of June 2008, before me, the undersigned, a notary public, or person designated to give oaths, in and for The Czech Republic, personally appeared ROMAN SENKO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is attached to this Declaration and made known to me that he signed this Declaration in his capacity, and that by his signature on this document, the individual or the person on behalf of which the individual acted, executed the instrument.

Notary Public (or Person designated to give Oaths)
[Place Stamp and/or Seal below signature.]

Ověření - legalizace

Číslo: O 1415, 2008
Ověřuji, že Roman SENKO
r.č. 440606/5144, Horní Sucha,
Dr. Glazera 15/1215
jehož /jejíž/ totožnost byla prokázána platným
úředním průkazem, tuto listinu přede mnou
vlastní rukou podepsal /a/. 16. 6. 2008
V Havířově dne
Notářka JUDr. Pavla Dolžalová




Ověření - legalizace

Číslo: O
Ověřuji, že Roman SENKO
I.č. 440606/5144 Klumi
Sucha, N. Glazara 1215/15
jehož /jejíž/ totožnost byla prokázána platným
úředním průkazem, tuto listinu přede mnou
vlastní rukou podepsal /a/. 16.6.2008
V Havířově dne
Notářka JUDr. Pavla Doleželová

[Handwritten signature]
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EXHIBIT A



Casey Dworkin <caseydworkin@gmail.com>

Lucas for me 12

videocompany@seznam.cz <videocompany@seznam.cz>

Thu, Apr 10, 2008 at 2:28 AM

To: Casey <casey@spunkvideo.com>

----- Původní zpráva -----

Od: M Lucas <michael@lucasentertainment.com>

Předmět: Re: 5 models for JUVIE 2 / E

Datum: 26.10.2007 21:37:53

Hey Roman,

First, again, I will only look at the pictures which are coming in # JPEG form, lo-res (72dpi). I cannot open the images otherwise. It # should be really easy to format them in this way.

Five actors is too few for this movie. 7 is the absolute least. I # prefer 8 models.

Yes, please I recommend that you always tell the truth. That is # exactly what you should say, that the movie was made to order, but # the order was that it should have had condoms, but you produced a # condom-less film. I think you will have no problem to sell it for # \$6000. But since you already got \$2000 from us, why don't you just # sell it for \$4000? This way you will get rid of it very fast.

We unfortunately do not have money to forward you. You will have to # invest your own money. I did invest three times before in your # company. With all due respect, you guys should have known that I use # condoms in my films.

There is no rush. Whenever you are ready with the film, just send it # our way. Again, it should be 4 scenes, with condoms, with fetish, # with 7-8 models who I have to approve.

You will get money in 7 business days after I receive the film, if I # approve it.

Best regards,

Michael Lucas

CEO, Lucas Entertainment

589 8th Ave, 2nd Floor

New York, NY 10018

P: 212-924-5892

F: 212-924-6514

C: 917-449-3103

E: Michael@LucasEntertainment.com

<http://www.LucasEntertainment.com>

<http://www.LucasDistribution.com>

<http://www.LucasBlog.com>

<http://www.xxxgigolo.com>

[061]

Confidentiality Notice And Disclaimer: This E-Mail and any files # transmitted herein are confidential and intended solely for the use # of the individual or entity to whom they are addressed. If you are # not said addressee please notify the designated sender immediately by # E-Mail or calling (212) 924-5892 x 14, then delete this E-Mail and # its associated files from your system. If you are not the intended # recipient you are hereby notified that disclosure, copying, # distribution, or taking any other action in reliance on the contents # of this E-Mail is prohibited by law and compliance will be enforced.

On Oct 26, 2007, at 4:21 AM, videocompany@seznam.cz wrote:

[061]

##

EXHIBIT B

November 6, 2007

Roman Senko
Galaxia Studio
The Czech Republic

Dear Roman,

Thank you for your interest in selling the rights to your Fetish film to Spunk. In order to memorialize our business relationship for this film, we have drawn up this Letter of Agreement. Please carefully review these terms, and if you agree, print 1 copy, place your initials on the bottom of the first two pages, sign on the space provided on the last page, and fax it to me at 1-415-282-1142. Once we receive the signed document, we will execute the agreement and return a signed copy by email.

To outline our agreement:

1) Galaxia Studio. (Hereinafter "Galaxia" or "you") will provide one (1) film for the purposes of this project. This film will consist of four (4) original fully edited "scenes" that are wholly unreleased, and new to the market (collectively and hereinafter, "the Title").

You warrant that:

- a) you have obtained full model releases from all models, and all models are of legal age (18 or older); all models must have Government-issued identification, such as a passport, driver's license or green card; you agree to indemnify and hold harmless Spunk in the event of any claim or cause of action arising out of improper or inadequate documentation;
- b) all of the material in the Title is new and original, and free from any and all encumbrances;
- c) each "scene" or segment of the title will be no shorter than 20 minutes;
- d) there are or will be no outstanding claims, objections, or defects which may impact the sales and marketing of the Title on a Worldwide basis.

All model releases and identity documentation will be delivered along with the title as outlined in Paragraph 3 below.

2) **Transfer of Ownership.** Upon payment as outlined in this agreement, Galaxia shall transfer to LBB Corp. d/b/a Spunk Studios, a California corporation (hereinafter "Spunk" or "we"), ownership and all worldwide rights to the title and associated materials subject to the terms outlined herein. Galaxia explicitly disclaims any and all rights, and acknowledges that upon payment that Spunk is the exclusive and sole owner of the title and associated materials in perpetuity.





3) **Masters and Raw Footage.** GALAXIA will provide to Spunk the finished title on DVCam or mini-DV tape in duplicate, ready for editing. In addition, GALAXIA will deliver any and all raw footage in the format in which it was created, and GALAXIA explicitly disclaims any and all rights, and acknowledges that Spunk is the sole owner of the raw footage in perpetuity.

4) **Artwork.** GALAXIA will provide digital still pictures of models of sufficient quality and quantity for the production of DVD sleeves, collateral material and other artwork. GALAXIA will provide a minimum of ten (10) unique photographic still images of each individual model associated with the title. Ownership and all worldwide rights to these photographs transfer to Spunk upon payment.

5) **Payment.** Upon delivery of the masters, still images, and associated materials, Spunk shall issue payment to GALAXIA in the amount of Six Thousand dollars (\$6000.00). The total of this single payment comprise the entire remuneration in exchange for ownership and all worldwide rights to the Title and associated materials.

6) **Titles and Name.** Spunk will create a new name for the film of its own choosing and may change any titles for any reason in its sole discretion.

7) **Transmission of Critical Materials.** GALAXIA and Spunk shall both utilize commercially secure and insured transportation of critical materials (non-replaceable) such as masters and artwork. Acceptable carriers include UPS, FedEx, and/or Airborne Express.

8) **Term.** The duration of this agreement is open-ended, and the acceptance by Spunk of additional films extends the entirety of this agreement to those films. The termination of this agreement does not alter the transfer of worldwide rights once payment has been made. This agreement shall be deemed terminated if: a) Either GALAXIA or Spunk notifies the other party in writing that this agreement is terminated, subject to 90 days advance notice; b) Either party materially breaches this agreement, and such breach is not cured within 10 days of written notice. This Agreement shall be deemed terminated as of the 90th day after notice.

9) **Notice.** All official communication, including notice of termination, shall be sent via registered mail, return receipt requested, to the following addresses:

if to: Spunk Studios
Gary Houser
601 Van Ness Avenue
Suite E3-324
San Francisco, CA 94102

if to: Galaxia,
Roman Senko
DR. GLAZERA 1511215
HORNÍ SUCHBÁT 43535
CZECH REPUBLIC

10) **Severability.** Should any portion of this Agreement be held unenforceable or invalid for any reason, the remaining provisions and portions of this Agreement shall be unaffected by such holding, and remain in full force and effect.

11/7/2007 - Roman Senko

[Handwritten signature]


CF

11) **Confidentiality.** Spunk and GALAXIA agree to maintain as confidential the authorship of the title; Further, this Agreement and the existence of this Agreement, including any and all clauses or terms included herein shall remain confidential, in perpetuity.

12) **No Assignment or Transfer of Rights.** GALAXIA shall not assign or transfer its rights and responsibilities granted hereunder. In the event of sale or transfer of GALAXIA, or material change in the ownership or management of GALAXIA, this agreement shall automatically terminate.

We look forward to working with you, and feel that this venture will prove successful for us both.

Best regards,


Casey Eworkin
LBB Corp.

Accepted and Agreed:

Galaxia
Roman Senko.

7/11/2007





Trade Name License for North America

Whereas the undersigned parties agree that it is beneficial for Galaxia Entertainment to license its tradename "Galaxia Entertainment" and/or "Galaxia" as relates to gay adult entertainment within North America.

The undersigned agree that Galaxia Entertainment shall grant a sole and exclusive license to LBB Corp DBA "Spunk," to market gay adult films under the name "Galaxia Entertainment" and/or "Galaxia" for an indefinite period for the sum of one dollar (\$1.00) in the area of North America.

This license can be rescinded at any time with one day notice with no penalty, and Spunk shall have no further interest in the name "Galaxia Entertainment."

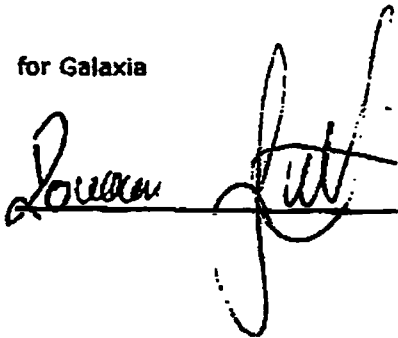
for Spunk



Date:

4/16/08

for Galaxia



Date:

16 April 2008

EXHIBIT C

VIDEO PURCHASE AGREEMENT

This Video Purchase Agreement ("Agreement") entered into as of this 7 day of JUNE, 2007, by and between Roman Senkowitz with his principal place of business at Dr. Glazera 15/1215, Horní Suchá, 73535, in the Czech Republic, ("Seller"), and Lucas Entertainment, Inc., with its principal place of business at 589 Eighth Ave, 2nd Floor, New York, NY 10018 USA ("Purchaser").

1. DEFINITIONS

A. "Video" shall mean all the video, tape, film and digital images of the Models performing in a video entitled " " which, as currently edited, is approximately minutes in length and contains the performances of ten (10) Models from ~~Hungary~~ ^{Czech Republic}. Specifically included in this definition is all the unedited, raw footage of the performances regardless of whether the images were used in the final product.

B. "Territory" shall mean worldwide.

2. SALE

A. Seller does hereby sell and Purchaser does hereby acquire all right, title and interest in and to the Video as defined above. Upon the execution of this Agreement, Seller shall deliver to Purchaser:

1. All Masters, slides, Beta Cam SP or DV Cam Mastered tape and any other tape and/or digital recording of the performances used in the making of the Video in VHS/S-VHS/BETA/DVCAM NTSC format.

2. All photographs of all the Models appearing in the Video in digital quality on CD-ROM disk.

3. All documentation required pursuant to 28 Code of Federal Regulations Part 75, 18 United States Code Section 2257, establishing the actual name, stage name, address and age of each Model appearing in the Video.

4. All agreements with each Model appearing in the Video concerning their appearance and performance in the Video.

5. All One Sheet and Video Box artwork on CD Rom with files in a layered format.

Lucas

ML
ch
P.S. [signature]

6. All Chromes, Slides (soft and hard core) and behind the scenes photos and video footage.

7. Signed Model Releases and ID's of all persons appearing in the Video.

8. All original footage for use in bloopers and behind the scenes segments of the DVD.

B. Purchaser shall have the exclusive right to license, manufacture, distribute, market, sell, advertise, promote and otherwise use the Video in the Territory in any manner Purchaser may, from time to time, deem appropriate.

C. Without limiting the generality of the foregoing, this Agreement specifically grants Purchaser the following rights:

1. The right to license, manufacture, distribute, advertise, market, sell and use the Video, any portion thereof and any still image, in any form and in any manner whatsoever throughout the Territory.

2. The right to edit, re-edit, change and modify the Video or any still image as Purchaser may desire and to lengthen or shorten the Video as Purchaser may, from time to time, deem appropriate.

3. The right to use Purchaser's name and Trademark on the Video, packaging, promotional materials and advertising.

4. The right to issue and authorize publicity to use, broadcast in connection with distribution and exploitation of the Video, the names, likenesses, voices and other sound effects of all members of the cast and any persons connected with the Video.

5. The right to produce, reproduce and edit such artwork and photographs pertaining to the Video as Purchaser shall deem appropriate.

6. The right to use excerpts, clips, stills and enhancements of the Video or any literary, dramatic or musical material contained in the Video for any purpose.

7. The right to use the Video, or any portion thereof, and to license same, as a streaming video on the internet.

8. The right to initiate and prosecute such processes as Purchaser may deem appropriate to protect the rights granted to it.

3. REPRESENTATIONS AND WARRANTIES

Seller hereby makes the following representations and warranties to Purchaser and agrees to defend and indemnify Purchaser from and against any claims or losses (including actual attorney's fees) which may arise from a breach of any of Seller's representations and warranties contained in this Agreement:

A. Seller has full and complete legal right, title and ownership in and to the Video and other items to be delivered to Purchaser pursuant to the terms of this Agreement.

B. Seller is the owner of the intellectual property consisting of the copyright in the Video.

C. The Video is free of any liens, claims, demands, or threatened or existing litigation.

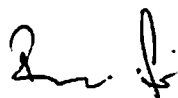
D. Neither the Video nor the stills, nor Purchaser's use and exploitation of them, will violate or infringe on any copyright, trademark, or other right of any person or entity, or constitute unfair competition.

E. Seller has not entered into and will not enter into any agreement that may conflict with the rights granted to Purchaser under this Agreement.

F. All Models and performers were over the age of eighteen (18) at the time of their performance, have been paid in full, and that no royalties of any kind are due to anyone in connection with the Video.

G. The Video is not in the public domain and no other person or entity has any right to use any of the images contained therein for any purpose whatsoever within the Territory.

H. Any credits that Purchaser is required to give shall be included in the titles on the Master Video when first delivered to Purchaser. If no such credits are then present, no credits need be given.

A handwritten signature in black ink, appearing to be "D. F.", located at the bottom left of the page.

I. Seller is the sole owner of the Video and all rights associated therewith and has the sole and exclusive right to convey the rights granted herein.

J. There are no judicial or governmental agency decision, judgment, rule, order or junction which prohibits, restricts, or in any way impedes the conveyance of the rights granted herein or the ownership or exploitation of the Video.

K. No Model appearing in the Video is or was the subject of any legal inquiry, action or proceeding concerning his appearance or performance in any film, recording or photo shoot.

4. ARBITRATION

Any dispute, controversy or claim arising out of or relating to this Agreement shall be resolved by arbitration before one (1) arbitrator in the City, County and State of New York in accordance with the rules of the American Arbitration Association. The arbitrator shall be selected from the American Arbitration Association in New York County. Each party shall pay the fees, costs and expenses of the arbitrator. The decision of the arbitrator shall be final and binding.

5. MISCELLANEOUS

A. This Agreement shall be deemed made in and shall be governed by and construed in accordance with the laws of the State of New York.

B. This Agreement constitutes the entire agreement between the parties hereto, supersedes all prior oral and written agreements, and may be modified only by written instrument duly executed by each of the parties hereto.

C. If any part of this Agreement shall be invalid or unenforceable, it shall not affect the validity of the balance of this Agreement.



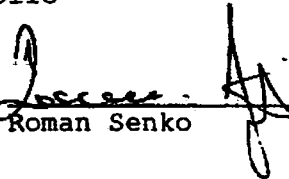
6. PAYMENT TERMS:

Purchaser will pay Seller the sum of Ten Thousand Dollars (\$10,000.00), US currency, upon receipt of this signed Agreement and the items set forth in Article 2A above. The funds shall be transferred to Seller in accordance with written instructions to be delivered to Purchaser.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

Roman Senko, Dr.Glazera 15/1215, Horní Suchá, 73535, Czech Republic

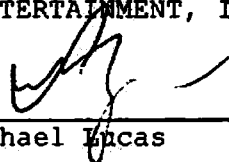
By:


Roman Senko

Date: 7.JUNE 2007

LUCAS ENTERTAINMENT, INC.

By:


Michael Lucas

Date: 7.JUNE 2007